

## REMARKS

Reconsideration of the instant application is respectfully requested. By this Amendment, applicants have corrected a previously undiscovered typographical error in the table appearing on page 11 of the specification. The amendment to the table appearing on page 11 does not introduce any new matter to the application but merely makes the information set forth in such table consistent with the information set forth in the text appearing at page 5, lines 8-11.

Also by this Amendment, applicants have amended claims 51-55 to correct a previously undiscovered typographical error. The word "nonapeptide" was misspelled as "nanopeptide" in such claims.

Finally, the application has been amended in response to certain issues raised by the Examiner in the prior Office Action. These amendments are discussed in detail below.

### ***Specification - 37 C.F.R. §1.821-1.825***

In the prior Office Action, the Examiner issued a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures. A copy of such Notice is enclosed with this response.

By this Amendment, applicants have submitted a 3.5" computer disk containing the data file "nonapeptide.txt". This data file, which was created using Patent-In 3.0 software, is a computer readable form (CRF) copy of the "Sequence Listing" for the nonapeptide disclosed in the application. Also by this Amendment, applicants have submitted an initial paper copy of the "Sequence Listing" as well as an amendment directing its entry into the

specification. Applicants represent that the content of the paper and CRF copies are the same and include no new matter because the specific amino acid sequence set forth in the "Sequence Listing" was previously disclosed at page 10, line 5 and page 12, line 13 of the specification.

In addition to the foregoing, applicants have amended the specification and claims 51-55 to conform with the requirements of 37 C.F.R. §1.821(d), which requires that reference be made to the Sequence Listing where the specification and/or claims discuss a sequence that is set forth in the Sequence Listing. Applicants respectfully submit that the application now meets the requirements of 37 C.F.R. §1.821-1.825.

### ***Claim Objections***

In the prior Action, the Examiner stated that claims 13-22, 39, 43, 46 and 52 were indefinite because such claims merely recited a use of Colostrinin without setting for any active, positive steps delimiting how this use is actually practiced. Applicants note that claims 39 and 43 were previously canceled in the Preliminary Amendment filed on September 24, 1999 and thus are not pending in the application. By this Amendment, applicants have amended claims 13-17, 19-22, 24, 44, 46 and 52 to make such claims more definite. As amended, claims 13-17, 19-22 and 46 are drawn to a medicament comprising Colostrinin, and claim 52 is drawn to a nonapeptide having a specified amino acid sequence for use for use in the manufacture of a medicament. Claims 24 and 44 have also been amended to reference use of the Colostrinin in humans. Claims 18 and 25 have been canceled for they are redundant, and the dependency of claim 26 has been

revised in light of the cancellation of claim 23 via the previously filed Preliminary Amendment.

### ***Claim Rejections - 35 U.S.C. §101***

In the prior Action, the Examiner rejected claims 13-22, 39, 43, 46 and 52 under 35 U.S.C. §101 on grounds that such claims were not proper process claims. As noted above, claims 39 and 43 were canceled by Preliminary Amendment. Accordingly, the rejection thereof is moot.

As amended, claims 13-17, 19-22 and 46 are drawn to a medicament comprising Colostrinin, and claim 52 is drawn to a nonapeptide having a specified amino acid sequence for use for use in the manufacture of a medicament. Such claims, as amended, are clearly not improper process claims. Applicants respectfully submit that the prior rejection thereof under 35 U.S.C. §101 has been overcome.

### ***Informality***

In the prior Action, the Examiner noted that applicants have not made reference to the prior PCT application in the first line of the specification after the title. Applicants are not aware of any requirement that the prior PCT application need be referenced in the first line of the specification after the title. Nevertheless, by this Amendment, applicants have added a reference to the prior PCT application in the first line of the specification after the title.

***Claim Rejections - 35 USC §103***

In the prior Action, the Examiner rejected claims 3-7, 9-22, 24-36, 38, 40, 41, 44, 46-47 and 51-55 under 35 U.S.C. §103(a) as being unpatentable over A.D. Inglot et al., "Colostrinine: a Proline-Rich Polypeptide from Ovine Colostrum Is a Modest Cytokine Inducer in Human Leukocytes", Archivum Immunologiae et Therapiae Experimentalis, vol. 44, 1996, pages 215-224 (hereinafter the "cited reference"), which is the first reference listed on the International Search Report submitted with the application.

The International Search Report indicates that the cited reference was published in August 1996. However, the information set forth in the International Search Report regarding the purported publishing date for the cited reference is wrong. As noted in the accompanying Declaration of Philip A. Curtis, who is the applicants' representative in matters pending in the European Patent Office, letters obtained from Archivum Immunologiae et Therapiae Experimentalis and its printer, Ossolineum, establish that the cited reference was not published and distributed prior to October 8, 1996. Applicants note that the European Patent Office has issued a letter accepting that there is no evidence that the cited reference was available to the public earlier than October 8, 1996.

Based upon the foregoing, applicants respectfully submit that the rejection of claims 3-7, 9-22, 24-36, 40, 41, 44, 46-47 and 51-55 under 35 U.S.C. §103(a) as being unpatentable over the cited reference is improper, since the cited reference was not available to the public prior to the October 3, 1996 priority date for the application and thus

may not properly be cited as prior art. Applicants note that there is no claim 38 pending in the application, and thus consider the prior rejection thereof as moot.

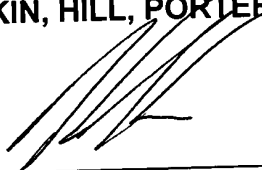
Included herewith is a Disclosure Statement for consideration and entrance by the Examiner. Relative to the Abstract entitled "Colostrinin For Treatment Of Alzheimer's Disease," applicants are not certain as to the exact publication date of such reference. However, to their knowledge such reference did not publish prior to the critical date of October 3, 1996 and, thus, it does not constitute material prior art. To the best of applicants' knowledge, the journal to which this reference relates was not placed into the European postal system to its subscribers before September 30, 1996 and the mailing service used was such that delivery would be very unlikely to occur in fewer than three days. Accordingly, in the Disclosure Statement a publication date of October 4, 1996 has been assigned to the Abstract.

### **Conclusion**

In light of the foregoing, it is submitted that claims 3-7, 9-17, 19-22, 24, 26-36, 40, 41, 44, 46-47 and 51-55 are in condition for allowance, and a notice to that effect is therefore earnestly solicited.

Respectfully submitted,

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